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The State of Madhya Pradesh Vs. Harisingh

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Court : Madhya Pradesh

Decided On : Jul-16-2012

Appellant : The State of Madhya Pradesh

Respondent : Harisingh

Advocate for Def. : Shri. Rajneesh Gupta

Judgement :

State of M.P. & Ors. Vs. Harisingh & Ors. Writ Petition No.1885/ 2007 (s) 16.7.2012: Shri Sanjeev Kumar Singh, learned Panel Lawyer for the petitioners. Shri Rajneesh Gupta, learned counsel for respondents. Challenging order passed by the Labour Court and the Industrial Court directing for classification of employee concerned on a particular post in accordance to the provisions of the standard standing order, formulated under the M.P. Industrial Employment (Standing Orders) Act, the petitioner State has filed this writ petition.

2. Having heard learned counsel for the parties and on perusal of record it is seen that the learned Labour Court and the Industrial Court have directed for classification of employee concerned only on the ground that he has been working on a particular post for a period of more than 6 months and, therefore, he has to be classified. However, while doing so, in the matter of classification, the principle of law laid down by the Hon'ble Supreme Court in the case of State of M.P. & Ors. Vs. Lalit Kumar Verma, 2007 AIR SCW 70.so also in the case of M.P. Housing Board and Another vs. Manot Shrivastava (2006) 2 SCC 702.have not been taken

note of. After considering the provisions of standard standing orders it has been held by the Supreme Court in the aforesaid cases that, an employee would not come within the purview of permanent employee only because he has completed 6 months satisfactory service, the other requirement of service must have been rendered in clear vacancy in one or more post has to be established and further in the case of Lalit Kumar Verma (supra) it has been held that even the manner in which the 2 employee was inducted into service has been taken note of and if provision of rules framed under Section 309 are violated this fact is also to be taken note of while directing for classification. In this regard certain provisions made by the Supreme Court in the case of Mahendra Lal Jain Vs. Indore Development Authority, 2005(1) SCC 639.has been taken note of, wherein also similar principle is laid down.

3. In the present case the classification has been ordered without following the principle of law laid down by the Supreme Court in the cases as indicated hereinabove and, therefore, it is a fit case where matter should be remanded to the Labour Court to consider the question in accordance to the law laid down in the cases referred to hereinabove and decide the question afresh after granting permission to adduce additional evidence in this regard to the parties.

4. Accordingly, this petition is allowed in part. Orders impugned passed by the Labour Court and the Industrial Court are quashed. Matter is remanded back to the Labour Court to re- consider the matter in the light of observations made hereinabove on filing a certified copy of this order. Labour court shall conclude the matter within a period of six months thereof.

5. With the aforesaid the petition stands disposed of. Certified copy as per rules. (Rajendra Menon) Judge ss/-

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